

U.S. Department of Labor

Office of Administrative Law Judges
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Pittsburgh, PA 15220

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Issue Date: 23 April 2003

Case No.: 2003-AIR-2

In the Matter of:

DAVID W. MARTIN,
Claimant

v.

AIR TECHNOLOGY ENGINES,
Respondent

DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT

The above-styled case arises under the provisions of Section 519 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century ("AIR 21" or "the Act"). 49 U.S.C. § 42121 *et seq*, and its implementing regulations, 29 C.F.R. Part 1979 ("the Regulations").

The Complainant, David W. Martin, filed a discrimination complaint with the Department of Labor against Air Technology Engines, Inc., the Respondent, on July 12, 2001. On March 11, 2003, the parties submitted a Settlement Agreement, which resolved all of the issues between the parties. The agreement was stamped "Confidential", and submitted for review and approval by the undersigned Administrative Law Judge.

A proceeding under the Act may be settled if the parties agree and the settlement is approved by the presiding administrative law judge. 29 C.F.R. § 1979.111(d)(2) (2002). My review of the settlement agreement is limited to a determination of whether its terms are fair, adequate and reasonable. The settlement must adequately protect the whistleblower. Furthermore, the settlement must not be contrary to public interest.

Both parties are represented by counsel. The parties agreed to maintain the confidentiality of the terms of the settlement agreement and agreed not to disclose information to third parties regarding the terms of the settlement, except as required by law.

After careful consideration of the agreement, I find that the terms of settlement are fair and reasonable. The settlement adequately protects the Complainant and is not contrary to the public interest. Thus, the settlement agreement will be approved.

By signing the agreement, both parties have demonstrated their intent to keep the settlement agreement confidential. The agreement will remain confidential to the extent permitted by law. Additionally, pursuant to 29 C.F.R. § 18.56, the settlement agreement will be maintained within a “restricted access” portion of the record.

Therefore, IT IS HEREBY ORDERED that the confidential Settlement Agreement is APPROVED. Accordingly, IT IS HEREBY FURTHER ORDERED that this matter is DISMISSED WITH PREJUDICE.

A

ROBERT J. LESNICK
Administrative Law Judge

RJL/SR/dmr

NOTICE OF APPEAL RIGHTS: This decision shall become the final order of the Secretary pursuant to 29 C.F.R. § 1979.110 (2002), unless a petition for review is timely filed with the Administrative Review Board (“the Board”), U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, D.C. 20210. Any party desiring to seek review, including judicial review, of a decision of the administrative law judge must file a written petition for review with the Board, which has been delegated the authority to act for the Secretary and issue final decisions under 29 C.F.R. Part 1979. To be effective, a petition must be received by the Board within 15 days of the date of the decision of the administrative law judge. The petition must be served on all parties and on the Chief Administrative Law Judge. If a timely petition for review is filed, the decision of the administrative law judge shall be inoperative unless and until the Board issues an order adopting the decision, except that a preliminary order of reinstatement shall be effective while review is conducted by the Board. The Board will specify the terms under which any briefs are to be filed. Copies of the petition for review and all briefs must be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210. See 29 C.F.R. §§ 1979.109(c), 1979.110(a) and (b).